

Because some of the claims in the BellSouth Telecommunications, Inc. Petition for Forbearance (FCC Docket no. 04-405) are poorly supported and its actual and potential drawbacks far outweigh its limited benefits, I urge that it be rejected. In particular, I do not believe there is merit to BellSouth's claim that, because it already enjoys a 90% ISP market share in its ADSL/DSL capacity, its competitive situation would not be changed significantly if it was allowed to exclude competing ISP's from providing high speed service using BellSouth ADSL/DSL capacity. Competition occurs at the margin and, in some cases, even an unimplemented option provides the benefits of a competitive market. If the cost of providing such an option was onerous because of some circumstances special to BellSouth, the company might have a claim worth considering but they have not proven such special circumstances. The claims of BellSouth do not outweigh the benefits of the actual and threatened competition that current regulation imposes.

There is a case that mass infrastructure is best delivered by regulated near-monopolies but a successful capitalist economy must regulate and circumscribe such monopolies as closely as is economically justifiable in order to enjoy the advantages of a competitive market. As technology changes, the direction of regulation should be to further expand competition. The claim that the ISP's of local high speed cable operators provide effective competition to BellSouth is incorrect since cable company services are neither universal nor equivalent. More importantly, the ISP businesses of both ADSL/DSL and cable providers typically provide much poorer service at higher cost than the most successful ISP's which are all local or regional specialists in the ISP business. From a cost, performance and customer service perspective, there is a clear case for maintaining a high speed ISP market that is as competitive as possible. If BellSouth is bucking the national trend and offers services so much better than its local ISP competitors that it holds 90% of the market, great. However, that does not mean that reducing the competitive pressure on BellSouth's high speed ISP service will be good for the local market and it sets a very poor precedent for the country.